

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation  
Against:**

**ROBERT IRA KAHN, M.D.**

**Case No. 800-2016-024384**

**Physician's and Surgeon's  
Certificate No. G33338**

**Respondent**

**DECISION**

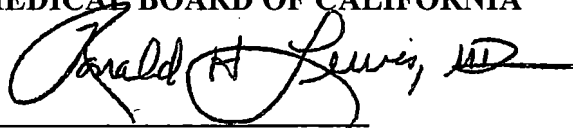
**The attached Stipulated Settlement and Disciplinary Order is hereby  
adopted as the Decision and Order of the Medical Board of California,  
Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on March 21, 2019.**

**IT IS SO ORDERED February 19, 2019.**

**MEDICAL BOARD OF CALIFORNIA**

**By:**



**Ronald Lewis, M.D., Chair  
Panel A**

1 XAVIER BECERRA  
Attorney General of California  
2 MARY CAIN-SIMON  
Supervising Deputy Attorney General  
3 GREG W. CHAMBERS  
Deputy Attorney General  
4 State Bar No. 237509  
455 Golden Gate Avenue, Suite 11000  
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*Attorneys for Complainant*

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8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 800-2016-024384

11 **ROBERT IRA KAHN, M.D.**  
12 **6139 California Street**  
13 **San Francisco, CA 94121**

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

14 **Physician's and Surgeon's Certificate No. G  
33338**

15 Respondent.

16  
17 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
18 interest and the responsibility of the Medical Board of California of the Department of Consumer  
19 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order  
20 which will be submitted to the Board for approval and adoption as the final disposition of the  
21 Accusation.

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
24 of California (Board). She brought this action solely in her official capacity and is represented in  
25 this matter by Xavier Becerra, Attorney General of the State of California, by Greg W. Chambers,  
26 Deputy Attorney General.

2. Respondent Robert Ira Kahn, M.D. (Respondent) is represented in this proceeding by attorney Robert W. Hodges Esq., whose address is: 3480 Buskirk Ave., #250, Pleasant Hill, CA 94523

3. On or about November 22, 1976, the Board issued Physician's and Surgeon's Certificate No. G 33338 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-024384, and will expire on January 31, 2020, unless renewed.

## JURISDICTION

4. Accusation No. 800-2016-024384 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 21, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2016-024384 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-024384. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1 CULPABILITY

2 9. Respondent agrees that each charge and allegation in Accusation No 800-2016-  
3 024384, if proven at a hearing, would subject his Physician and Surgeons Certificate to discipline  
4 and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary  
5 Order below.

6 CONTINGENCY

7 10. This stipulation shall be subject to approval by the Medical Board of California.  
8 Respondent understands and agrees that counsel for Complainant and the staff of the Medical  
9 Board of California may communicate directly with the Board regarding this stipulation and  
10 settlement, without notice to or participation by Respondent or his counsel. By signing the  
11 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
12 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
13 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
14 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
15 action between the parties, and the Board shall not be disqualified from further action by having  
16 considered this matter.

17 11. The parties understand and agree that Portable Document Format (PDF) and facsimile  
18 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
19 signatures thereto, shall have the same force and effect as the originals.

20 12. In consideration of the foregoing admissions and stipulations, the parties agree that  
21 the Board may, without further notice or formal proceeding, issue and enter the following  
22 Disciplinary Order:

23 DISCIPLINARY ORDER

24 A. PUBLIC REPRIMAND

25 IT IS HEREBY ORDERED that Respondent Robert Ira Kahn, M.D.'s Physician's and  
26 Surgeon's Certificate, No. G 33338, shall be and hereby is public reprimanded pursuant to  
27 California Business and Professions Code section 2227, subdivision (a)(4). This public  
28 reprimand is issued in connection with Respondent mistakenly informing a patient that there was

1 a high chance that a mass was malignant when it actually had a lower malignancy rate; and his  
2 failure to convert to an open procedure to control bleeding once it was clear that the robotic  
3 techniques were not preventing blood loss, as set forth in Accusation No. 800-2016-024384.

4 **B. EDUCATION COURSES**

5 Within sixty (60) calendar days of the effective date of this Decision, Respondent shall  
6 submit to the Board or its designee for its prior approval educational program(s) or course(s)  
7 which shall not be less than forty (40) hours. The educational program(s) or course(s) shall be  
8 completed by Respondent within twelve (12) months and focus on preoperative assessment, and  
9 responding to intraoperative bleeding and complications and shall be Category I certified. The  
10 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to  
11 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the  
12 completion of each course, the Board or its designee may administer an examination to test  
13 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65  
14 hours of CME of which 40 hours were in satisfaction of this condition.

15 If Respondent fails to enroll, participate in, or successfully complete the education courses  
16 within the designated time period, Respondent shall receive a notification from the Board or its  
17 designee to cease the practice of medicine within three (3) calendar days after being so notified.  
18 Respondent shall not resume the practice of medicine until he has completed the required courses.  
19 Failure to enroll, participate in, or successfully complete the courses within the designated time  
20 period shall constitute unprofessional conduct and grounds for further disciplinary action.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert W. Hodges Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 10/29/18 Robert Ira Kahn M.D.  
ROBERT IRA KAHN, M.D.  
*Respondent*

I have read and fully discussed with Respondent Robert Ira Kahn, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 10/31/18 Robert W. Hodges Esq.  
ROBERT W. HODGES ESQ.  
*Attorney for Respondent*

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 10/31/2018

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
MARY CAIN-SIMON  
Supervising Deputy Attorney General

Greg W. Chambers  
GREG W. CHAMBERS  
Deputy Attorney General  
*Attorneys for Complainant*

**Exhibit A**

**Accusation No. 800-2016-024384**

1 XAVIER BECERRA  
Attorney General of California  
2 MARY CAIN-SIMON  
Supervising Deputy Attorney General  
3 GREG W. CHAMBERS  
Deputy Attorney General  
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6 Facsimile: (415) 703-5480.  
*Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO February 21, 2018  
BY: RECEIVED ANALYST

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 800-2016-024384

Robert Ira Kahn, M.D.  
2100 Webster Street, #222  
San Francisco, CA 94115

**A C C U S A T I O N**

Physician's and Surgeon's Certificate  
No. G 33338,

Respondent.

Complainant alleges:

**PARTIES**

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On November 22, 1976, the Medical Board issued Physician's and Surgeon's Certificate Number G 33338 to Robert Ira Kahn, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2020, unless renewed.

**JURISDICTION**

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.



4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

“(b) Gross negligence.

“(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

“(d) Incompetence.

“ . . . ”

## FACTS

6. At all times relevant to this matter, Respondent was licensed and practicing medicine in California.

7. Patient P-1,<sup>1</sup> a 55 year old man, was referred to Respondent by his primary care physician after a CT scan of his abdomen and pelvis with contrast showed a 1.8 cm lesion at the upper pole of his left kidney. The radiologist's impression was that it "may represent solid renal neoplasm versus hyperdense cyst." He recommended further evaluation with a renal mass protocol CT or MRI of the abdomen, without and with contrast.

8. Respondent saw P-1 on December 4, 2015 and discussed partial nephrectomy with him which he noted was probably what P-1 needed and which would be set up to be done later in

<sup>1</sup> The patient is designated in this document as Patient P-1 to protect the privacy of his family. Respondent knows the name of the patient and can confirm his identity through discovery.

1 the month. He documented that P-1 was scheduled for a CT urogram the following week and that  
2 he would get back to P-1 after he'd reviewed the results.

3 9. On December 11, 2015, P-1 had a CT scan of his abdomen and pelvis with and  
4 without contrast. The impression of the radiologist was "[h]yperattenuating lesion of left renal  
5 upper pole shows no definite contrast enhancement. This may be a hyperdense cyst. Suggest  
6 surveillance by CT or MRI."

7 10. Instead of surveilling the lesion for changes over time, Respondent scheduled P-1 for  
8 a robotic assisted arthroscopic left partial nephrectomy.

9 11. The surgery was scheduled for January 7, 2016. In Respondent's January 7, 2016  
10 history and physical for P-1, he stated that P-1 was found to have a 1.8 cm left upper pole solid  
11 mass consistent with renal cell carcinoma with probably an 80% to 90% chance of malignancy.

12 12. Surgery commenced at approximately 8:15 a.m. January 7, 2016. Respondent was at  
13 the robotic console performing the material aspects of the surgery and was responsible for all  
14 decision-making before and during the surgery.

15 13. Respondent put in five laparoscopic ports—three for a camera, monopolar scissors,  
16 and fenestrated forceps, respectively, and two accessory ports for the assisting surgeon's use. In  
17 attempting to expose the hilar area, Respondent reflected the colon off the kidney and  
18 immediately entered Gerota's fascia, exposed the surface of the kidney, and proceeded to dissect  
19 out the vessels in the direction of the aorta instead of staying outside Gerota's fascia until the  
20 colon was reflected past the area where the aorta and vena cava should be and proceeding from  
21 there, resulting in a lack of exposure that obscured the location of the aorta.

22 14. At numerous points in the surgery, Respondent used the monopolar scissors to  
23 cauterize directly onto small vessels or tissues closely adhered to the surface of the renal artery  
24 without first lifting them away.

25 15. Approximately an hour and a half into the surgery, Respondent swept over the surface  
26 of the renal artery wall with the tips of the scissors and the patient began to bleed.

27 16. Respondent called for vascular surgery assistance and attempted to hold pressure on  
28 the artery with the robotic instruments until vascular surgery help arrived. At the same time,

1 Respondent made prolonged and continued attempts to explore the area to identify the source of  
2 the bleeding and to place clips to stop it. The bleeding continued, however, and P-1 received at  
3 least 26 units of blood intraoperatively and another 40 units of blood postoperatively.

4 17. Respondent did not immediately convert to an open procedure to manually stanch the  
5 bleeding but waited over an hour and a half until vascular surgeons arrived before converting.

6 **CAUSE FOR DISCIPLINE**

7 **(Gross Negligence and/or Repeated Negligent Acts and/or Incompetence)**

8 18. Respondent Robert Ira Kahn, M.D. is guilty of unprofessional conduct and subject to  
9 disciplinary action under section 2234, subdivisions (b) (gross negligence) and/or (c) (repeated  
10 negligent acts) and/or (d) (incompetence), of the Code in that he engaged in the conduct described  
11 above including, but not limited to, the following:

12 A. Respondent assumed that the hyperattenuating lesion seen on the CT scan was a solid  
13 renal mass even though it showed no contrast enhancement.

14 B. Respondent failed to document his reasons for disagreeing with the radiologist's  
15 suspicion that P-1's lesion was a hyperdense cyst and the radiologist's recommendation to follow  
16 the lesion with CT scan or MRI.

17 C. Respondent advised P-1 that there was a high chance that his mass was malignant—  
18 Respondent documented an 80 to 90% risk—when a hyperattenuating non-enhancing renal lesion  
19 like P-1's has a very low malignancy rate, approaching 0%.

20 D. Respondent failed to convert to an open procedure in an effort to control ongoing  
21 bleeding once it was clear that the robotic techniques were not preventing blood loss.

22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
24 and that following the hearing, the Medical Board of California issue a decision:

25 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 33338,  
26 issued to Robert Ira Kahn, M.D.;

27 2. Revoking, suspending or denying approval of Robert Ira Kahn, M.D.'s authority to  
28 supervise physician assistants and advanced practice nurses;

1           3.     Ordering Robert Ira Kahn, M.D., if placed on probation, to pay the Board the costs of  
2 probation monitoring; and

3           4.     Taking such other and further action as deemed necessary and proper.  
4

5     DATED: February 21, 2018

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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